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Opinion Committee

Attention: Opinions Committee

Dear Sirs or Madams:

Enclosed is a Brief along with this request for an opinion. The question is whether or not the county can apply Order No. 2 to limit supplemental payment being paid to two disabled employees who began receiving their supplemental payment prior to the enactment of Order No. 2.

Should you require any more information, please let me know.

Yours very truly,

James W. Carr

JWC:am
Enclosure

ACCOMPANIED BY ENCLOSURES —
FILED SEPARATELY

BRIEF

FACTS

Lavaca County hired employee, ALOIS BUJNOCH on January 1, 1961 and employee CHARLES D. TOUSEK on August 31, 1970. Both employees operated heavy equipment to build and/or maintain county roads until Mr. Bujnoch became disabled on November 15, 1988 and Mr. Tousek became disabled on February 15, 1990. Both employees began receiving Workman's Compensation insurance payments for temporary total disability.

On August 1, 1986, the Commissioners Court ordered payments to disabled employees to supplement Workman's Compensation benefits so that, during the period of total disability, the employee would receive benefits equal to the amount of the employee's regular salary (Order No. 1).

On February 1, 1991 the Commissioners Court ordered a limitation period of ten months in which disabled employees could receive such supplemental payments (Order No. 2).

ISSUE

The question is whether the ten month limitation period is applicable to the two employees who began receiving supplemental payments under Order No. 1 before the enactment of Order No. 2.

BASIS FOR OPINION

1. Section 157.004 Local Government Code requires a county with a population of 290,000 to 500,000 to pay the regular salary, under certain conditions, to an injured employee for a period of six months. There is no similar requirement for Lavaca County, a county with a population of less than 290,000.


2. Counties who subscribe to Workman's Compensation insurance are entitled to the same privileges and immunities as are extended to private employers. V.T.C.A., Civ.Prac.and Rem. Code Section 101.028.

3. Since supplemental benefits may be authorized as part of the employees pre-established regular compensation benefits, City of Corpus Christi v. Herschbach 536 S.W.2D 653 (Tex.App.8 Dist. 1985), the payment of supplemental benefits does not violate Tex.Const. Art III.

4. Both of the above mentioned employees were hired before Order No. 1, so the employees do not have any contractual rights to supplemental payments for an unlimited period.

OPINION

Consequently, the supplemental payments to all employees, including the above mentioned employees, can be limited to a period of ten months by Order No. 2.



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